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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,234	03/14/2001	Bernard Paul Joseph Thiers	THIE3001/JEK	2131

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EXAMINER

MCDERMOTT, KEVIN

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,234

Applicant(s)

THIERS, BERNARD PAUL
JOSEPH

Examiner

Kevin McDermott

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,7,17,18,20,21 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,17,18,20,21,23-26 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 19.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Information Disclosure Statement

The Information Disclosure Statement filed September 30, 2003 has been considered. However, Applicant has not provided copies of three of the documents, namely: Technical Information – MDF Medium Density Fiberboard; A User's manual concerned with the manufactureof medium density fiberboard, pages 67-69, 85, 88, and 89; and, Arbeitskreis, pages 116-120.

These three documents have not been considered. Applicant is requested to provide copies of these references.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 6, 7, 17, 20, 21, 23-26, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moriau in view of Chen.

Regarding claims 1, 20, 21, 23, 26, and 29-31, Moriau discloses in figures 22-25 and in column 5, line 13 to column 9, line 6, a loor covering comprised of hard floor panels 1, such as a laminated panel. Floor panels 1 can be of various shape, for example, rectangular or square, or of any other shape.

In the most preferred form of embodiment, they shall be manufactured in an elongate form, such as shown in figure 1, for example, with a length of 1 to 2 meters.

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The thickness, however, can also vary, but is preferably 0.5 to 1.5 cm, and more particularly 0.8 cm.

Each floor panel 1 is, at least at the edges of two opposite sides 2-3, provided with coupling parts 4-5 which permit two adjacent identical floor panels 1 to be coupled to each other.

The coupling parts 4, 5 are provided with integrated mechanical locking parts or elements 6 which prevent the drifting or sliding apart of two coupled floor panels 1 in a direction D perpendicular to the respective sides 2, 3 and parallel to the underside 7 of the coupled floor panels 1; the coupling parts 4, 5 and the locking elements 6 are formed in one piece with the core 8 of the floor panels 1; the coupling parts 4, 5 have such a shape that two subsequent floor panels 1 can be engaged into each other solely by snapping-together and/or turning after the coupling parts are partially engaged; and, the coupling parts 4, 5 preferably are interlocked free from play in all directions in a plane which is located perpendicular to the aforementioned edges.

The coupling parts 4, 5 can be realized in various forms, although the basic forms thereof will always be formed by a tongue 9 and groove 10. Floor panels 1 have a top side.

Regarding claim 23, because the panels 1 are turned after the coupling parts 4, 5 are engaged, the panels can be rotated in or out of one another at least along the opposite edges.

The laminated flooring panels 1 consist of a core 8 made of MDF medium density fiberboard, HDF high density fiberboard or similar, whereby at least at the upper side of

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this core 8 one or more layers of material are provided. The laminated flooring panels 1 are provided with a decorative layer 55 and a protective top layer 56. The decorative layer 55 is a layer, impregnated with resin, for example, made of paper, which can be imprinted with a variety of patterns, such as a wood pattern, a pattern in the form of stone, cork, similar or even with a fancy pattern.

However, Moriau does not disclose a cut-away portion adjacent at least one of two opposite edges, and intersecting the top side, that is covered with a covering layer that is a separate layer from the decorative layer 55 and is a moisture-proof impermeable layer.

Chen discloses in figures 1-29 and in column 3, line 66 to column 6, line 56, a surface covering system having a series of tiles 50, 52, a first spline 54 and a second spline 56, which are all interconnected. The tiles that are used are such that each tile preferably has four sides, a top surface and a bottom surface. Three of the sides have groove sections and the other side has a tongue section. The tongue section of one tile interconnects with a groove section of a second tile. Furthermore, the tongue and groove sections are designed such that when they interconnect with each other, a gap is formed in the upper surface between the two tiles in order to receive a spline section.

As shown in figures 1-3, the groove section of the tile can have various angular cuts. For instance, as shown in Fig. 2a, the tile near the upper surface of the sides, has a tapered cut on each side in order to form a more defined trapezoidal gap between two tiles when they are interconnected as shown in fig. 2b. Figure 3 shows a tapered upper

side section wherein the length of the tapered cut is shorter. These tapered cuts are cut-away portions adjacent at least one of two opposite edges and intersect the top side.

The second spline 56 is used in the surface covering system to simulate the same grout or mortar simulated by the first spline. The second spline fills in gaps between tiles that run perpendicular or at an angle to the first spline, as disclosed in figure 29. This second spline 56 fits over the gap created by the interconnection of the tongue section of one tile and the groove section of a second tile as shown in figs. 1b-3b. The second spline does not have any tongue or groove sections, but instead is a piece of material that simply fits between the gap created by two connecting tiles. The second spline is simply inserted or placed into the gap and then can be permanently affixed by various techniques. The second spline is a covering layer covering the tapered cut, or cut away portion, described above and is a separate layer from the top surface. The second spline is a moisture-proof impermeable layer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the panels 1 of Moriau to include a cut-away portion adjacent at least one of two opposite edges, and intersecting the top side, that is covered with a covering layer that is a separate layer from the decorative layer 55 and is a moisture-proof impermeable layer.

One of ordinary skill would have been motivated to make such a modification give Moriau's floor system a simulated grout look.

Regarding claim 3, as discussed above, the groove section of the tile can have various angular cuts. For instance, as shown in Fig. 2a, the tile near the upper surface

of the sides, has a tapered cut on each side in order to form a more defined trapezoidal gap between two tiles when they are interconnected as shown in fig. 2b. Figure 3 shows a tapered upper side section wherein the length of the tapered cut is shorter. The cuts disclosed in figure 3 comprise bevels extending at an angle of 45 degrees in relation to the plane including the panel.

Regarding claim 4, the disclosures of Moriau and Chen are discussed above. However, neither of these references specifically discloses each cut, in the plane of the respective panel, extending over a distance of about 2 millimeters.

The thickness of the panels 1 of Moriau can vary, but is preferably 0.5 to 1.5 cm. Using a panel 1 thickness of .05 cm and modifying the panels 1 of Moriau to include the cuts at 45 degrees would require a cut of about 2mm.

One of ordinary skill in the art would make such a modification to provide a vertical distance/wall between the tongue and cut, as illustrated in figure 3b of Chen.

Regarding claim 6, the panels 1 of Moriau can be snap-fit together.

Regarding claim 7, the disclosures of Moriau and Chen are discussed above. As discussed above, both the panels 1 of Moriau and the tiles of Chen are rectangular, and the cuts of Chen are located on each side of the tiles.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to dispose cuts on each side of the tiles.

One of ordinary skill in the art would have been motivated to make such a modification to form a more trapezoidal gap between two panels 1 when they are connected.

Regarding claim 17, the disclosures of Moriau and Chen are discussed above.

However, neither Moriau nor Chen specifically discloses cut-away portions comprising bevels extending at an angle so that the plane including the bevel does not intersect any other portion of the respective edge section of the panel at which the bevel is provided.

As discussed above, the cuts/bevels of Chen can take various forms.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the panels of Moriau to include cuts, as taught by Chen, disposed at an angle so that the plane including the bevel does not intersect any other portion of the respective edge section of the panel at which the bevel is provided.

One of ordinary skill would have been motivated to make such a modification to give Moriau's floor system a simulated grout look.

Regarding claims 24 and 25, the disclosures of Moriau and Chen are discussed above. Each of these references discloses a floor panel or tile. However, neither of these references disclose the width of the panels or tiles being less than 17cm.

It would have been an obvious matter of design choice to make the panels 1 of Moriau less than 17 cm wide, since applicant has not disclosed that doing so solves any stated problem or is for any particular purpose and it appears the invention would perform equally well with other widths.

One of ordinary skill would be motivated to make such a modification so that a floor could be installed with fewer field modifications to the panels.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moriau in view of Chen and further in view of Smith.

Moriau discloses, in column 5, lines 13-15, hard floor panels, such as laminated panels. Moriau also discloses, in column 8, lines 59-64, a laminated flooring panel having an MDF or HDF core, and a backing layer 58 disposed on the panel underside.

However, Moriau does not disclose the backing layer being made from a polyethylene based material. Polyethylene is a thermoplastic material.

Smith discloses in column 2, lines 70-71, a thermoplastic decorative sheet 21 covering the face and sides of a panel.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Moriau to include a thermoplastic layer on the bottom of the panel.

One of ordinary skill in the art would have been motivated to make such a modification to provide a panel having a smooth, uniform plastic covering along the bottom surface of the panel.

Allowable Subject Matter

Claims 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

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The prior art does not disclose, and it does not appear obvious to modify the prior art to disclose, a floor covering panel having the structural limitations recited in claim 1, wherein the cut-away portion covering layer comprises a print.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kevin McDermott, whose telephone number is 703-308-8266.

KM 12/05/03

A handwritten signature in black ink, appearing to read "Brian E. Glessner", with a long horizontal flourish extending to the right.

**BRIAN E. GLESSNER
PATENT EXAMINER**